

SENATE BILL 539

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By: **Senators Harrington, Madaleno, Pinsky, Pugh, and Raskin**

Introduced and read first time: February 4, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Chain Restaurants – Nutrition Information Labeling**

3 FOR the purpose of requiring certain chain restaurants to provide certain nutrition
4 information for certain menu items; establishing how the nutrition information
5 is to be determined; authorizing chain restaurants voluntarily to provide
6 customers with additional nutrition information; requiring certain nutrition
7 information to be displayed in a certain manner; requiring certain chain
8 restaurants to display certain statements regarding daily caloric intake
9 requirements; establishing certain exceptions to certain enforcement
10 procedures; authorizing a local health department to enforce certain provisions;
11 providing for certain civil penalties; providing for certain exemptions from
12 certain penalties; defining certain terms; and generally relating to nutrition
13 information provided by chain restaurants.

14 BY repealing and reenacting, with amendments,

15 Article – Health – General
16 Section 21–313 and 21–1214
17 Annotated Code of Maryland
18 (2009 Replacement Volume)

19 BY adding to

20 Article – Health – General
21 Section 21–353 through 21–355 to be under the new part “Part VIII. Nutrition
22 Information Labeling”
23 Annotated Code of Maryland
24 (2009 Replacement Volume)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 21-313.

2 (a) [To] EXCEPT AS PROVIDED IN PART VIII OF THIS SUBTITLE, TO
3 enforce this subtitle, a representative of the Department, at any reasonable time, may:

4 (1) Enter and inspect any food establishment; and

5 (2) Inspect and sample any item of food that is in a food
6 establishment.

7 (b) A person may not:

8 (1) Refuse to grant access to a representative of the Department who
9 requests to enter and inspect a food establishment under this section; or

10 (2) Interfere with any inspection under this section.

11 **21-351. RESERVED.**

12 **21-352. RESERVED.**

13 **PART VIII. NUTRITION INFORMATION LABELING.**

14 **21-353.**

15 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) (1) "CHAIN RESTAURANT" MEANS A FOOD ESTABLISHMENT THAT:

18 (I) HAS 15 OR MORE LOCATIONS NATIONALLY;

19 (II) DOES BUSINESS UNDER THE SAME TRADE NAME,
20 REGARDLESS OF THE TYPE OF OWNERSHIP OF THE INDIVIDUAL RESTAURANT
21 LOCATIONS;

22 (III) SERVES FOOD FROM A MENU OR OTHER SALES
23 MECHANISM LISTING INDIVIDUAL FOOD ITEMS TO BE CONSUMED IN INDIVIDUAL
24 PORTIONS; AND

25 (IV) OFFERS PREDOMINANTLY THE SAME TYPE OF MENU IN
26 EACH LOCATION.

27 (2) "CHAIN RESTAURANT" DOES NOT INCLUDE:

- 1 (I) A FULL-SERVICE SUPERMARKET OR GROCERY STORE;
- 2 (II) A CONVENIENCE STORE; OR
- 3 (III) A MOVIE THEATRE.

4 (C) “MENU” MEANS THE PRIMARY WRITING OF THE CHAIN
5 RESTAURANT FROM WHICH THE CONSUMER MAKES AN ORDER SELECTION,
6 INCLUDING A MENU BOARD, TAKE-OUT MENU, AND DRIVE-THRU DISPLAY
7 BOARD.

8 (D) “STANDARD MENU ITEM” DOES NOT INCLUDE:

- 9 (1) A TEMPORARY MENU ITEM THAT APPEARS ON THE MENU FOR
10 LESS THAN 60 DAYS PER YEAR;
- 11 (2) ITEMS NOT SERVED IN INDIVIDUAL PORTIONS;
- 12 (3) ITEMS THAT ARE NOT LISTED ON A MENU;
- 13 (4) CONDIMENTS AND OTHER ITEMS PLACED ON A TABLE OR
14 COUNTER FOR GENERAL USE WITHOUT CHARGE; OR
- 15 (5) OTHER FOOD ITEMS THAT:
- 16 (I) ARE PART OF A MARKET TEST; AND
- 17 (II) APPEAR ON THE MENU FOR LESS THAN 90 DAYS, UNDER
18 TERMS AND CONDITIONS ESTABLISHED BY THE SECRETARY.

19 21-354.

20 (A) (1) A CHAIN RESTAURANT SHALL:

21 (I) LIST THE NUMBER OF CALORIES CONTAINED IN A
22 STANDARD MENU ITEM ON THE MENU;

23 (II) ON REQUEST BY THE CUSTOMER, PROVIDE THE
24 CUSTOMER WITH WRITTEN INFORMATION THAT INCLUDES, FOR EACH SERVING
25 SIZE OF THE STANDARD MENU ITEM, THE TOTAL NUMBER OF:

26 1. CALORIES;

- 1 **2. CALORIES DERIVED FROM TOTAL FAT;**
 - 2 **3. GRAMS OF FAT;**
 - 3 **4. GRAMS OF SATURATED FAT;**
 - 4 **5. MILLIGRAMS OF CHOLESTEROL;**
 - 5 **6. MILLIGRAMS OF SODIUM;**
 - 6 **7. GRAMS OF CARBOHYDRATES;**
 - 7 **8. GRAMS OF COMPLEX CARBOHYDRATES;**
 - 8 **9. GRAMS OF SUGAR;**
 - 9 **10. GRAMS OF DIETARY FIBERS; AND**
 - 10 **11. GRAMS OF PROTEIN; AND**
- 11 **(III) POST PROMINENTLY ON THE MENU A CLEAR AND**
12 **CONCISE STATEMENT THAT INCLUDES:**
- 13 **1. INFORMATION ON THE SUGGESTED DAILY**
14 **CALORIC INTAKE, AS SPECIFIED BY THE SECRETARY BY REGULATION; AND**
 - 15 **2. THE SIGNIFICANCE OF THE CALORIC**
16 **INFORMATION PROVIDED UNDER ITEM (I) OF THIS PARAGRAPH IN THE CONTEXT**
17 **OF A TOTAL DAILY DIET.**
- 18 **(2) THE NUTRITION INFORMATION REQUIRED UNDER**
19 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE LISTED:**
- 20 **(I) NEXT TO THE NAME OF THE STANDARD MENU ITEM;**
 - 21 **(II) IN A SIZE AND TYPEFACE OF EQUAL PROMINENCE TO**
22 **THE PRICE OR NAME OF THE STANDARD MENU ITEM; AND**
 - 23 **(III) PER STANDARD MENU ITEM AS USUALLY PREPARED**
24 **AND OFFERED FOR SALE.**
- 25 **(B) A CHAIN RESTAURANT SHALL OBTAIN NUTRITION INFORMATION**
26 **USING ANALYTIC METHODS AND EXPRESS NUTRIENT CONTENT IN A MANNER**

1 CONSISTENT WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND ITS
2 IMPLEMENTING REGULATIONS OR AS SPECIFIED BY THE SECRETARY.

3 (C) FOR A STANDARD MENU ITEM THAT COMES IN DIFFERENT FLAVORS,
4 VARIETIES, OR COMBINATIONS, BUT IS LISTED AS A SINGLE MENU ITEM, THE
5 SECRETARY SHALL ADOPT BY REGULATION STANDARDS FOR DETERMINING AND
6 DISCLOSING THE NUTRIENT INFORMATION FOR THOSE ITEMS.

7 (D) A CHAIN RESTAURANT VOLUNTARILY MAY PROVIDE ADDITIONAL
8 NUTRITION INFORMATION.

9 **21-355.**

10 (A) (1) A COUNTY MAY DESIGNATE A REPRESENTATIVE FROM THE
11 LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART.

12 (2) IF A REPRESENTATIVE FROM THE LOCAL HEALTH
13 DEPARTMENT IS NOT DESIGNATED, THIS PART SHALL BE ENFORCED IN
14 ACCORDANCE WITH § 21-313 OF THIS SUBTITLE.

15 (B) THE ENTITY THAT ENFORCES THIS PART:

16 (1) MAY NOT BE REQUIRED TO VERIFY THE ACCURACY OF THE
17 NUTRITION INFORMATION; AND

18 (2) MAY REQUEST THAT A CHAIN RESTAURANT PROVIDE
19 DOCUMENTATION OF THE ACCURACY OF THE NUTRITION INFORMATION.

20 (C) (1) (I) THE ENTITY THAT ENFORCES THIS PART MAY ISSUE A
21 CIVIL CITATION TO A PERSON WHO VIOLATES ANY PROVISION OF THIS PART IN
22 THE SAME MANNER DESCRIBED UNDER ARTICLE 24, § 15-103 OF THE CODE.

23 (II) JUDICIAL PROCEEDINGS FOR VIOLATIONS OF THIS
24 PART ARE GOVERNED BY ARTICLE 24, § 15-104 OF THE CODE.

25 (III) THE ENTITY THAT ENFORCES THIS PART SHALL IMPOSE
26 A CIVIL PENALTY NOT EXCEEDING \$500 FOR THE FIRST VIOLATION AND NOT
27 EXCEEDING \$1,000 FOR EACH SUBSEQUENT VIOLATION OF THIS PART.

28 (IV) THE CIVIL PENALTY IS TO BE COLLECTED IN A CIVIL
29 ACTION IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE VIOLATION
30 OCCURRED.

1 **(2)** A PENALTY IMPOSED BY THE LOCAL HEALTH DEPARTMENT
2 AND COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL
3 FUNDS FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

4 **(3)** EACH INSPECTION MAY NOT RESULT IN MORE THAN ONE
5 VIOLATION.

6 21-1214.

7 **(a)** THIS SECTION DOES NOT APPLY TO A VIOLATION OF SUBTITLE 3,
8 PART VIII OF THIS TITLE.

9 **(B)** Any person who violates any provision of Subtitle 3 of this title or any
10 rule or regulation adopted under Subtitle 3 of this title is guilty of a misdemeanor and
11 on conviction is subject to:

12 (1) For a first offense, a fine not exceeding \$1,000 or imprisonment not
13 exceeding 90 days, or both; and

14 (2) For a second offense, a fine not exceeding \$2,500 or imprisonment
15 not exceeding 1 year, or both.

16 **[(b)] (C)** In addition to any criminal penalties imposed under this section, a
17 person who violates any provision of Subtitle 3 of this title or any rule or regulation
18 adopted under Subtitle 3 of this title or any term, condition or limitation of any license
19 or registration issued under Subtitle 3 of this title:

20 (1) Is liable for a civil penalty not exceeding \$5,000, to be collected in a
21 civil action in the District Court for any county; and

22 (2) May be enjoined from continuing the violation.

23 **[(c)] (D)** Each day on which a violation occurs is a separate violation under
24 this section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2010.